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No. 302

In the Supreme Court of the United States

OCTOBER TERM, 1952

CLAIBORNE DAMERON, PETITIONER

v.

A. S. BRODHEAD, MANAGER OF REVENUE AND EX-OFFICIO TREASURER OF THE CITY AND COUNTY OF DENVER

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF COLORADO

BRIEF FOR PETITIONER

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OPINION BELOW

The District Court of the City and County of Denver, Colorado, wrote no opinion. The opinion of the Supreme Court of Colorado (R. 12–18), although not yet officially reported, is unofficially reported in 244 P. 2d 1082.

JURISDICTION

The judgment of the Supreme Court of Colorado was entered on May 12, 1952. (R. 18–19.) A petition for rehearing was denied on June 2,

1952. (R. 21.) The petition for a writ of certiorari was filed on August 28, 1952, and granted on November 24, 1952. (R. 24.) The jurisdiction of this Court rests on 28 U. S. C., Section 1257 (3).

QUESTION PRESENTED

Whether, where a serviceman domiciled in one state is assigned to military duty in another state, the latter state is barred by Section 514 of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, from imposing a tax on the serviceman's tangible personal property located within its borders.

STATUTORY PROVISIONS INVOLVED

The pertinent provisions of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, are set forth in Appendix A, *infra*, pp. 31–34.

STATEMENT

The material facts are undisputed. As alleged in the complaint (R. 2–6) and admitted by the answer (R. 6–8), they are as follows:

Petitioner is, and at all times material to this case has been, a commissioned officer of the United States Air Force. Respondent is the acting Manager of Revenue and ex-officio Treasurer and Assessor of the City and County of Denver, State of Colorado. (R. 3.)

During all of the year 1948, petitioner was assigned to duty at Lowry Field, an installation of the United States Air Force in the State of

Colorado, in part within and in part adjacent to the City and County of Denver. In compliance with military orders, petitioner temporarily was obliged to be in Denver, and during all times pertinent to this case he resided in rented quarters at Apartment One, 1523 Willow Street, which are privately owned premises located in the City and County of Denver. (R. 3.)

During the whole of the year 1948 and for many prior years petitioner was, and at the present time is, a citizen and resident of the State of Louisiana domiciled in the town of Port Allen in the parish of West Baton Rouge. During all of such time, petitioner has been a qualified voter in Louisiana. (R. 3.)

On April 23, 1948, the Manager of Revenue and ex-officio Treasurer and Assessor of the City and County of Denver assessed a tax of $23.51 for the year 1948 upon tangible personal property (most of which was household goods) valued at $460, owned exclusively by petitioner and possessed and maintained by him in his apartment in Denver. (R. 3, 8.) The property was assessed under a statute of the State of Colorado (Appendix A, *infra*, p. 34) which provides that all personal property within that state on March 1 of any year is to be listed and assessed in the county where located at that time. On April 1, 1949, petitioner paid the tax under protest (R. 4), and thereafter instituted this action to recover the tax (R. 2-6). On March 18, 1950, the Dis-

trict Court of the City and County of Denver entered judgment for petitioner. (R. 8.) The Supreme Court of Colorado reversed. (R. 18.)

SPECIFICATION OF ERRORS TO BE URGED

The Supreme Court of Colorado erred:

1. In holding that the exemption provided by Section 514 (1) of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, is subject to the condition that payment of taxes has been made in the state of the serviceman's domicile.

2. In not holding that the exemption from taxation by the state of the serviceman's military duty, provided by Section 514 (1) of the Act, is absolute, if the serviceman is present in that state, and absent from the state of his domicile, solely by reason of compliance with military orders.

SUMMARY OF ARGUMENT

Section 514 of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, provides, in plain and unambiguous terms, that a serviceman does not lose his residence or domicile in any state solely by reason of being absent therefrom in compliance with military orders; that he does not acquire residence or domicile in any state to which he happens to be assigned to duty, merely because of his presence in that state; and that his "personal property shall not be deemed to be located or present in or have a situs for taxation" in such a state. These provisions plainly precluded imposition of a personal property tax by the Colo-

rado authorities upon petitioner, an Air Force officer domiciled in Louisiana and stationed in Colorado under military orders.

The exemption granted by Section 514 from taxation of servicemen's personal property by any state other than that of domicile is absolute and unconditional. Regarding the statute as creating a "rebuttable presumption" as to the situs of personal property, the Supreme Court of Colorado held that the exemption is contingent upon a showing that the property has already been taxed in the state of the serviceman's domicile, and that since there was no such showing in this case, Colorado could properly levy a tax on petitioner's personal belongings situated within its borders. The error of this construction is demonstrated by the terms, purpose, and legislative history of the Act, as well as by the liberal construction to which an exemption statute of this type is entitled.

There can be no serious question as to the constitutionality of Section 514. It is a reasonable and valid exercise of the broad power of Congress to provide for the common defense and to raise and support an army and navy. This power includes authority to grant tax exemptions reasonably related to the performance of federal functions. Congress could properly undertake to protect servicemen from the harassments of multiple local taxation of their personal property, by restricting the power to tax such property to the state of domicile.

ARGUMENT

I

SECTION 514 OF THE SOLDIERS' AND SAILORS' CIVIL RELIEF ACT PRECLUDES IMPOSITION OF DENVER'S PROPERTY TAX ON PETITIONER'S PERSONAL PROPERTY

It is common ground that petitioner, a domiciliary of Louisiana and an Air Force officer, was present in Colorado during 1948 solely by reason of his compliance with military orders. He was assigned to temporary duty at Lowry Field, an Air Force installation within and adjacent to Denver, and by reason of that assignment he temporarily resided in Denver. Denver's revenue manager assessed the tax in issue because a Colorado statute provides that all personal property within that state on March 1 of a given year is to be listed and assessed in the county where it is located at that time (*infra*, p. 34).

The short of our position is that Section 514 of the Soldiers' and Sailors' Civil Relief Act, as amended (*infra*, pp. 32–34), specifically bars this levy by providing, *first*, that a person in the military service does not acquire residence or domicile in a state in which he happens to be located while on military assignment, and, *second*, that his "personal property shall not be deemed to be located or present in or to have a situs for taxation" in such a state. The gist of the opposing position,

as set forth by the Supreme Court of Colorado, is that the tax exemption granted by Section 514, despite its preemptory and unlimited words, applies only where it is shown that the property has been taxed in the state of the serviceman's domicile, and that here there is no such showing.

Petitioner's reading of Section 514 is compelled, we believe, by its terms, purpose and legislative history, as well as by the liberal construction to which an exemption statute of this type is entitled. Nothing in the language or history of the statute warrants the conclusion that the exemption from taxation by the state of physical location depends on a showing by the serviceman that the property has already been taxed by the state of his domicile.

A. THE TERMS OF SECTION 514

1. Section 514 (*infra*, pp. 32–34) provides in pertinent part that [1] for the purposes of taxation in respect of any person, or of his personal property, income, or gross income, by any State, such person shall not be deemed [a] to have lost a residence or domicile therein "solely by reason of being absent therefrom in compliance with military or naval orders," or [b] "to have acquired a residence or domicile in * * * any other State * * * while, and solely by reason of being, so absent," and [2] that "for the purposes of taxation in respect of the personal property" of any such person by any State of which

such person is not a resident or in which he is not domiciled, "personal property shall not be deemed to be located or present in or to have a situs for taxation in such State * * * ."

Section 514 thus provides, in clear and unambiguous language, that when one in the military service is absent from his state of domicile in compliance with military orders, no state other than the state of domicile shall impose a tax upon his personal property or income. The concluding clause—providing, "for the purposes of taxation in respect of the personal property" of a serviceman, that "personal property shall not be deemed to be located or present in or to have a situs for taxation in such State" in which the serviceman and his property are present, in obedience to his military orders—would seem in itself to be dispositive of this case. But Congress erected a further barrier against tax by the service state by providing that a serviceman's residence and domicile would not shift from state to state wherever he moved pursuant to military orders, and that he would not acquire a residence or domicile in any state solely by reason of his military service within its borders. Thus, under the statute, Colorado can base its claim to tax petitioner's property neither on the assertion that he became a Colorado resident or domiciliary nor on the fact that the property is physically located or has a "situs" in Denver. Since there is no other conceivable basis for the tax in question, it is com-

pletely barred by the literal terms of the federal Act.

The all-embracing reach of the personal property exemption is made even clearer by the provisions on income taxation in Section 514. It seems indisputable that Colorado's power to tax the serviceman's income is entirely eliminated. With a double provision comparable to that applicable to property taxes, the Act accomplishes this result by declaring (1) that a serviceman whose presence in the state is solely by reason of military orders shall not be deemed to have become domiciled in or a resident of the state, and (2) that compensation for military service of such a person (who is actually performing services within the state) shall not be deemed income for services performed within the state.

As noted by the Supreme Court of Colorado (R. 16), there has been no claim that petitioner should pay a Colorado income tax for which residents of Colorado are liable, and in view of the language of Section 514 any such claim would clearly be precluded, no matter what action was taken by the state of his domicile. So far as we can determine, no state has ever asserted that a serviceman must show the taxation of his income by the state of domicile before he may claim the benefits of Section 514. Indeed, some states (*e. g.*, Pennsylvania, Florida) impose no income tax, but so far as we know this fact has not been regarded as relevant to the application of Sec-

tion 514. Congress was undoubtedly aware that some states (*e. g.*, Delaware, New York) impose no personal property tax. As the legislative history shows (*infra*, pp. 20–21), it was the purpose of Section 514, as amended in 1944, to give servicemen the same protection from "multiple taxation" in respect of personal property taxes as was provided in respect of income taxes. Hence a serviceman domiciled in a state having no income or property tax would, under the Act, be entirely exempt from any such tax imposed by the state in which he is serving. But this benefit derives, not from any Congressional largesse, but from the laws of his home state. The Act does not, and was not intended to, alter in any way the tax provisions of the states in relation to their own residents. Congress left these provisions where it found them, its sole concern being that no state other than that of the serviceman's domicile should have the power to tax his income or personal property solely because in obedience to military orders he was stationed in such other state, and earned his income and kept his personal belongings there.

2. Nothing in the words of Section 514 supports the Supreme Court of Colorado in its holding that, with respect to property taxes, Congress merely created a "rebuttable presumption" against taxation of the tangible personal property of a serviceman located in the state solely because of military orders, and that the "rebuttable presumption"

would automatically be overcome by the serviceman's failure to prove that his home state taxed the property. The statute does not speak of "rebuttable presumptions", or of "presumptions" at all. True, it says that personal property shall not be "deemed" to be located in the non-domiciliary state, and the court below, reading "deemed" as equivalent to "presumed", regarded it as creating only a "rebuttable presumption". But "deemed" is most often synonymous with "regarded", "considered", or "adjudged", and creates what is in effect a "conclusive presumption", or, in other words, a substantive rule of law. See, *e. g., Douglas* v. *Edwards,* 298 Fed. 229, 237 (C. A. 2d), reversed on other grounds, 269 U. S. 204, 207; *United States* v. *Davis,* 50 F. 2d 903 (W. D. Mo.); *Leonard* v. *Grant,* 5 Fed. 11, 16 (C. C. D. Ore.); *In re Shepherd's Estate,* 183 Or. 629, 635–637, 194 P. 2d 425, 428–429. In using the phrase "shall not be deemed", the draftsmen of Section 514 simply chose one of the older, and perhaps more euphemistic, forms of speech for declaring that the state of service cannot tax the serviceman's personal property even though it is located in and has a situs in that state.

If, as respondent contends, Section 514 were read to mean that personal property of a serviceman on duty within a state shall not be "presumed" to be located or present in or to have a situs for taxation in that state, it would be ineffectual. For in every case to which the statute

has meaningful application, there is no question whatsoever as to the actual situs of the property. The statute was obviously not intended to create a "presumption" of fact as to the location of servicemen's property. The exemption from taxation granted by the Act is in terms absolute and not dependent upon any showing that the property is not actually in the state where the serviceman is serving. What the statute does is to provide, in familiar lawyer's language, that the service state can not, solely by reason of the presence within its borders of the serviceman and his personal belongings, levy a tax on such property. If, as the Supreme Court of Colorado thought, the statute creates only a "rebuttable presumption" that the "situs" of a serviceman's property is the state of his domicile, that presumption would inevitably be rebutted in every case by the inescapable concession that the property is in fact located in the state where the serviceman is on duty. Such a presumption would not be rebutted, as the court found it was in this case, by the serviceman's failure to show that he paid taxes on his personal property in the state of domicile. The latter fact has no reasonable relation to a presumption of factual "situs". Hence the construction given the Act by the court below is itself inconsistent with the notion that the statute creates only a "presumption" of fact as to the situs of servicemen's property. Section 514 is meaningful only if con-

strued, in accordance with its terms and purpose, as creating an absolute exemption (or, to put it another way, "conclusive presumption") against taxation of a serviceman's personal property by a state other than that of his domicile.

The state Supreme Court seems to have been led into error by its own rephrasing of the statute. The opinion (R. 17–18) takes modifying language from the first sentence of Section 514 (1) (*infra*, pp. 32–33)—paraphrasing it to read "solely by reason of his being absent from Louisiana and stationed in Colorado in compliance with military orders"—and then incorrectly applies the paraphrased language as a qualifying clause attached to the provision in the second sentence of Section 514 (1) (*infra*, p. 33) that "personal property shall not be deemed to be located or present in or to have a situs for taxation in such State." The only condition actually included in the statute, however, as a part of the provision that "personal property shall not be deemed to be located or present in or to have a situs for taxation in such State," is that the property belong to "such person" as is described in the first sentence of Section 514 (1). The fact that petitioner in the present case is "such person" as is described in Section 514 (1), and the fact that the property was owned by him, are abundantly clear from the allegations of the complaint (R. 3), admitted by the answer

(R. 6), and in the courts below these facts were taken as established.

Finally, the Supreme Court of Colorado was likewise in error in construing (R. 18) the proviso contained in Section 514 (2) (b)[1] as indicating a legislative intent that property taxes in the state of domicile shall have been paid before the exemption of personal tangible property can be brought into play in the state of service. The court correctly observed that subsection (2) (b) defines the term "taxation" to include licenses, fees, or excises imposed in respect to motor vehicles or the use thereof, and that the statute makes it clear that those items must be paid at the domicile before they can be included within the "taxation" which is barred by Section 514 (1). However, the court failed to note two significant distinctions made by the draftsmen:—(1) while the section provides that the term "taxation" shall include licenses, fees, or excises imposed in respect to motor vehicles, the term "taxation" is specifically stated not to be limited to those licenses, fees, or excises; and (2) the pro-

[1] Section 514 (2) provides:

(2) When used in this section, (a) the term "personal property" shall include tangible and intangible property (including motor vehicles), and (b) the term "taxation" shall include but not be limited to licenses, fees, or excises imposed in respect to motor vehicles or the use thereof: *Provided*, That the license, fee, or excise required by the State, Territory, possession, or District of Columbia of which the person is a resident or in which he is domiciled has been paid. [Appendix A, *infra*, pp. 33–34.]

viso to Section 514 (b) (2) does not speak of "taxation" but merely of "license, fee, or excise." By carving out of the broader term "taxation" a limited type of state exaction and, then, by providing that this limited type of exaction shall have been paid at home before it may be included within the term "taxation" as used in Section 514 (1), Congress indicated, we believe, an intent exactly contrary to that inferred by the Colorado Court. In specifically enumerating the types of exactions which must have been paid in the state of domicile, Congress plainly implied that such payment of other types of exactions need not be shown in order to claim exemption in the state of service.[2] The condition in paragraph (2) of Section 514 is, in its terms, not a general policy to be applied to the entire section, but emphasizes, instead, that Congress did not limit the general exemption from taxation conferred in paragraph (1) of Section 514 (Appendix A, *infra*, pp. 32–33).

B. THE LEGISLATIVE HISTORY AND PURPOSE OF SECTION 514

A potent factor in the Colorado court's decision seems to have been its belief that (1) to deny Colorado the right to tax here would grant peti-

[2] The reason why the provision relating to the payment of motor vehicle licenses, fees, or excises was included in the statute is not disclosed in the legislative history of Section 514, but a possible reason is that Congress adopted the provision as a means of insuring that servicemen's automobiles would be licensed somewhere for general law enforcement purposes.

tioner a complete exemption from personal property tax; and that (2) the purpose of Congress in enacting Section 514 was merely to prevent multiple taxation, and it did not contemplate or desire to grant any such complete exemption from taxation. In our view, the statute's history does not show that Congress had so restricted a purpose. On the contrary, the expressed legislative aim was to free servicemen from all income and personal property taxation in the different states in which they might be ordered to serve, leaving this as a subject-matter of taxation only by the state of domicile. Whether or not a state imposes an income or personal property tax on its domiciliaries temporarily absent on military duty is wholly unaffected by the Act. Similarly, the restrictions imposed by the Act upon the taxing power of states other than that of the serviceman's domicile are wholly unaffected by the extent, if any, to which the latter state taxes his property or income.

1. As originally enacted, the Soldiers' and Sailors' Civil Relief Act of 1940 contained no provisions such as are found in Section 514. That Section was added by Section 17 of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942, c. 581, 56 Stat. 769 (50 U. S. C. App., 1946 ed., Sec. 574), and was subsequently amended by the Act of July 3, 1944, c. 397, 58 Stat. 722, Sec.

1.[3] Section 514 was emergency legislation, originally with a specified time for its expiration.[4] At the time of its enactment in October 1942, this country was at war. Millions of civilians were being called into the military services, and military personnel were being transferred from place to place with great frequency. Congress had already provided in Section 500 of the Soldiers' and Sailors' Civil Relief Act of 1940 for limitations upon the right to sell for taxes a serviceman's real property while he was in the military service. The several states had varying laws respecting taxation of income and personal property.[5] In those states where taxes were imposed

[3] The 1944 Act added, among other things, the provision, of crucial importance in this case, that "personal property shall not be deemed to be located or present in or to have a situs for taxation in such State, Territory, possession, or political subdivision, or district * * *" (see Appendix A, *infra*, p. 33).

Section 17 of the 1942 Act had added the portions of Section 514 providing (a) that "for the purposes of taxation in respect of any person, or of his property, income, or gross income", no residence or domicile would be gained or lost by virtue of military service, and (b) that military compensation would not be income earned within the state of service (see Appendix A, *infra*, pp. 32, 33).

The occasions of, and reasons for, the 1942 and 1944 amendments are discussed in this section of our brief, *infra*.

[4] The original expiration date was six months after the termination of the war. Thereafter, the Act was extended by the Selective Service Act of 1948, c. 625, 62 Stat. 604, 623, Sec. 14, until "terminated by subsequent Act of the Congress."

[5] In some states no tax is imposed on income (*e. g.*, Florida, Pennsylvania); in some states no tax is imposed on tangible personal property (*e. g.*, Delaware, New York).

on tangible personal property there were varying tax assessment dates extending over eight of the twelve calendar months (see Appendix C, *infra*, pp. 43–44), and varying taxable periods,[6] rates, valuations, and exemptions.

It was in this setting that Congressman Sparkman, on April 30, 1942, introduced in the House of Representatives H. R. 7029 (Appendix B, *infra*, p. 40) a bill to amend the Soldiers' and Sailors' Civil Relief Act of 1940 (among other things) with respect to taxation of servicemen by the different states. The bill was referred to the Committee on Military Affairs, and thereafter hearings were held.

The House Hearings on H. R. 7029, 77th Cong., 2d sess., held on May 22 and 25, 1942, contain the following significant statement by Major William D. Partlow, Jr., of the Judge Advocate General's Department, who appeared for the War Department (Hearings, p. 28):

> Section 17 is designed to prevent multiple State taxation of the property and income of military personnel serving within various taxing jurisdictions through no choice of their own. Under present State laws the

[6] For example, in Colorado the assessment date is March 1. However, the law of that state further provides that where property is brought into the state after March 1 and remains there until the succeeding March 1, the tax is to be prorated. Thus, it would appear that if property is brought into that state on February 1 and remains after March 1, it would be liable for thirteen months of taxes. See Appendix A, *infra*, pp. 43–44.

personal property and income of such persons may become liable for taxes in several States within the same calendar year.

The section is retroactive as to collection of such taxes to September 8, 1939, the date of the President's declaration of a limited emergency. Since that date military personnel have been transferred from place to place more often than in normal times.

The first proviso of this section—omitted through error from the bill as introduced—saves the right of such taxation to the State in which such person was legally domiciled or residenced immediately prior to the period of military service.

The House Committee rewrote the bill and reported it out as H. R. 7164. Though it departed materially from the wording of the original Sparkman bill (H. R. 7029), the Committee's report (H. Rep. No. 2198, 77th Cong., 2d Sess.) shows that there was no change in purpose or objective; in describing the bill's aim, the Committee used the exact language of the first two paragraphs of Major Partlow's statement on Section 17 of H. R. 7029 which we have quoted above (*supra*, pp. 18–19). H. R. 7164, as reported by the House Committee, was enacted into law (without pertinent amendment) as the Soldiers' and Sailors' Civil Relief Act Amendments of 1942, c. 581, 56 Stat. 769, 777.

Section 514, as rewritten by the Committee and adopted by the Congress in 1942, used the word "property" (see p. 32, *infra*), but did not

define it or indicate more specifically (as had been done with respect to income taxation) that personal property taxes were barred. Subsequent to enactment of the 1942 amendments, questions were raised as to the effect of the new Section 514 with respect to personal property taxes, and proposed legislation was submitted to Congress in 1944 in order to clarify this matter. This proposed legislation was in the language of the old H. R. 7029, which had been introduced by Congressman Sparkman in 1942. Again, however, Congress did not adopt the language of the proposed legislation. The Committee reports agreed that the then existing law pertaining to state taxation of the personal property of servicemen present in the various states in compliance with military orders should be clarified, and that "the military personnel concerned should not be subjected to multiple taxation of personal property by the various States and should be given the same protection as to personal property taxes as is now provided in respect of income taxes." S. Rep. No. 959, 78th Cong., 2d Sess., pp. 1–2; and see H. Rep. No. 1514, 78th Cong., 2d Sess., p. 2 (quoted in Appendix B, *infra*, pp. 36–38).

The Senate Committee stated in its report that, when Section 514 was added in 1942, it was intended to apply to personal property taxes as well as to income taxes, but that the provision, as added in 1942, did not prevent the state of "temporary residence" from taxing tangible

personal property "actually located" in such state so long as the tax did not depend on residence or domicile. The Committee recognized that a few states had taken the position that tangible personal property of military personnel who were only temporarily within their jurisdiction did not acquire a situs for taxation, but declared that it had also been held that Section 514 as then written did not affect the right of a state to assess personal property taxes on property "within its jurisdiction." The result, the Committee said, had been that servicemen found themselves "at times subjected to" personal property taxes on the same property in more than one state during the same calendar year "by reason of being moved under orders." (S. Rep. No. 959, quoted in Appendix B, *infra*, p. 37.)

The House Committee likewise referred to the need to amend Section 514 to clarify its application to personal property taxes, particularly in order to free servicemen from being "subjected to personal property taxes in more than one State by reason of being moved under orders." The House Committee added that the "purpose of the present act is to correct this situation and to give to the servicemen the same protection as to personal property taxes that they now have as to income taxes" (H. Rep. No. 1514, quoted in Appendix B, *infra*, pp. 39–40).

This legislative history thus convincingly shows that Congress, in the 1944 amendment, adopted

the view—referred to in the Senate Committee report, *supra*—of those states which had taken the position that tangible personal property of military personnel only temporarily within their jurisdiction does not acquire a situs for taxation, as against the position that Section 514 should not affect the right of a state to assess personal property taxes on property within its jurisdiction. Just as Congress had flatly established in 1942 that the state of service could not tax a serviceman's military pay, so in 1944 it made it indisputable that a soldier's personalty was beyond the jurisdiction of the state of service and that that state could not impose a levy on his personal property, tangible or intangible.[7]

2. Admittedly, Congress' main purpose was to avoid double or multiple taxation of servicemen, and not to free them of all taxes. But it chose to achieve this end by centering the power to tax in the state of the domicile and freeing the serv-

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[7] In the Eighty-first Congress, Senator Byrd introduced a bill (S. 415) to amend Section 514 of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, "to permit States and political subdivisions thereof to impose taxes on the personal property of members of the armed services located in such States and political subdivisions." That bill was not reported out by the Senate Committee on Armed Services to which it had been referred. Undoubtedly, the purpose of this bill was to remove the clearly expressed bar to state and local taxation of personal property by the state of service. The legislative history of this bill is, at the least, suggestive of the Congressional intent underlying Section 514 (1), as amended in 1942 and 1944.

icemen from income or property taxation by any other state. This was a reasonable and practical solution in view of the nature of the problem, which arises largely from the fact that personal property is assessed for taxation on different dates by the various states and local governments (Appendix C, *infra*, pp. 43–44), with the result that a serviceman transferred from state to state could be taxed by each state in which he held his personal property on the assessment date. In the instant case, for example, double taxation would result if the personal property in question had been present in Mississippi on January 1, the assessment date in that state. Similarly, double or multiple taxation would result if a serviceman were successively present with his personal property in a given year in Wyoming (assessment date February 1, Kansas (assessment date March 1), Illinois (assessment date April 1), South Carolina (assessment date June 1), and New Jersey (assessment date October 1). Under the construction of the Act made by the court below, the personal property of servicemen domiciled in states, such as New York, which have no personal property tax could be taxed in each state where they and their property happened to be on the assessment date.[*] Thus, the decision below exposes members

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[*] The same would be true of a serviceman, like petitioner, who is domiciled in a state, like Louisiana, which taxes only personal property situated *within* the state. See *La. Civil*

of the armed forces to the very type of multiple taxation which Congress plainly sought to avoid. Only an application of Section 514 consonant with the legislative design to exclude all except the domiciliary state can effectuate Congress' purpose to do away with multiple taxation of servicemen.[9]

Code, Tit. 47, ch. 3, §§ 1951–1952. Compare Mass. G. L., chap. 59, § 2: "All property, real and personal, situated within the Commonwealth, and all personal property of the inhabitants of the Commonwealth *wherever situated*, unless expressly exempt, shall be subject to taxation." (Italics ours.) A similar provision is to be found in Rhode Island Gen. Laws 1938, chap. 29, Tit. VI, § 1.

[9] Even if it be true, as respondent asserts (Br. in Opp. p. 9), that a domiciliary state could not constitutionally tax a serviceman's tangible personalty located in another state, it would not justify the construction made by the court below, which in effect would result, contrary to the clear terms of the statute, in taxation exclusively by the state or states of physical situs, and not by the state of domicile. Congress was intent on preventing multiple taxation of a serviceman's property and income in the different states of potential service, and to attain this end adopted the simple and uniform rule that taxation can be imposed only by the domiciliary state. Congress could not have been unaware that, as a result, some property or income might escape taxation altogether.

We may also point out, in this connection, that the rule against taxation of out-of-state property is premised on the potential taxability of that property in the state of its location—a condition not present here, under our reading of Section 514. Moreover, the declaration in Section 514 that personal property shall not have "a situs for taxation" in the state of service may conceivably be construed as implying that the state of domicile retains power to tax, since under the normal rule it is only personal property with a taxable "situs" in another state which is exempt from levy by the

C. BROAD CONSTRUCTION OF FEDERAL TAX EXEMPTION STATUTES

It is significant that the statute here under construction is one which grants a federal exemption from state taxation. The Court has pointed out that such exemptions expressly provided by Congress for federal agencies and instrumentalities will not be whittled away by the courts. *Carson* v. *Roane-Anderson Co.*, 342 U. S. 232; *Pittman* v. *Home Owners' Corp.*, 308 U. S. 21, 31; *N. J. Ins. Co.* v. *Dir. of Tax Appeals*, 338 U. S. 665, 673, 675. Such exemptions are to receive a hospitable reading in keeping with the general purpose of the exemption, rather than a narrow and technical interpretation which would be confining in scope. *Pittman* v. *Home Owners' Corp., supra; Federal Land Bank* v. *Bismarck Co.*, 314 U. S. 95. The statutory protection should not "be frittered away" by restrictive readings. 314 U. S. at 99.

This principle of broad construction of federal tax exemption statutes is especially pertinent here. The Court has said that the Soldiers' and Sailors' Civil Relief Act "must be read with an eye friendly to those who dropped their affairs

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domiciliary state. See *Standard Oil Co.* v. *Peck*, 342 U. S. 382; *Northwest Airlines* v. *Minnesota*, 322 U. S. 292, 296; *Johnson Oil Co.* v. *Oklahoma*, 290 U. S. 158; *First Nat. Bank* v. *Maine*, 284 U. S. 312, 322–323; *Frick* v. *Pennsylvania*, 268 U. S. 473; *Southern Pacific Co.* v. *Kentucky*, 222 U. S. 63; *Union Refrigerator Transit Co.* v. *Kentucky*, 199 U. S. 194. It may well be, therefore, that Louisiana would have power to tax the portion of petitioner's personalty involved in this case.

to answer their country's call" (*Le Mqistre* v. *Leffers*, 333 U. S. 1, 6), and that it "is always to be liberally construed to protect those" for whose benefit it was enacted. (*Boone* v. *Lightner*, 319 U. S. 561, 575). On the face of Section 514 (1), it is evident, we think, that Congress intended to accord to servicemen a wide freedom from state and local tax burdens, except in the state of domicile. This broad purpose, petitioner submits, is thwarted by the construction given the Act by the Supreme Court of Colorado in this case.

II

SECTION 514 IS CONSTITUTIONAL

In the court below, respondent challenged the constitutional power of Congress to bar the tax in question. That challenge was based upon two contentions: (1) that Congress has no power to exempt from State taxation tangible personal property not owned by the United States, its agents, or corporations; and (2) that the exemption provided by the section violates the Constitution because it forbids the exercise by the State of its sovereign power to tax when the exercise of that power would not interfere with a federal power or right. In our view, each of these arguments is invalid.

A. Congress was legislating in Section 514 under its broad constitutional power to provide for the common defense and to raise and support

armed forces. The Soldiers' and Sailors' Civil Relief Act followed upon the great defense mobilization of 1940 and was designed to help provide a strong army and navy. Section 100 of the Act (Appendix A, *infra*, p. 31) specifically declares that Congress was exercising its constitutional powers in order to free servicemen from the burdens and anxieties of certain civil liabilities "in order to enable such persons to devote their entire energy to the defense needs of the Nation". And the 1942 and 1944 amendments, involved in this case, were equally concerned with the attainment and support of a first-class fighting force. See *supra*, pp. 10, 16, 18, 19–24.

There can be no doubt of Congress' power to adopt servicemen's exemption legislation of this character, as an incident of its war and defense powers. The general power to provide tax exemptions reasonably related to the performance of Federal functions has been announced and confirmed in *Carson* v. *Roane-Anderson Co.*, 342 U. S. 232, 233–234; *Pittman* v. *Home Owners' Corp.*, 308 U. S. 21, 32–33; *Federal Land Bank* v. *Bismarck Co.*, 314 U. S. 95, 102–104; *Maricopa County* v. *Valley Bank*, 318 U. S. 357, 361; *Board of Commissioners* v. *Seber*, 318 U. S. 705, 715, 719. These cases, and others, recognize and apply broad exemptions from state taxation granted by Congress to a variety of persons and agencies.

APPENDIX B

1. H. Rep. No. 2198, 77th Cong., 2d Sess., p. 6:

* * * * * *

SECTION 17

Section 17 is designed to prevent multiple State taxation of the property and income of military personnel serving within various taxing jurisdictions through no choice of their own. Under present State laws the personal property and income of such persons may become liable for taxes in several States within the same calendar year.

The section is retroactive as to collection of such taxes to September 8, 1939, the date of the President's declaration of a limited emergency. Since that date military personnel have been transferred from place to place often than in normal times.

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2. S. Rep. No. 1558, 77th Cong., 2d Sess., p. 11, contains identical language.

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3. S. Rep. No. 959, 78th Cong., 2d Sess., pp. 1–5:

The Committee on Military Affairs, to whom was referred the bill, H. R. 4733, to amend section 514 of the Soldiers' and Sailors' Civil Relief Act, having considered the same, submit the following report thereon, with the recommendation that it do pass.

The purpose of the proposed legislation is to clarify the intent of section 514 of the Soldiers' and Sailors' Civil Relief Act

as added by section 17 of the act of October 6, 1942 (56 Stat. 769, 777). When that provision of law was added to the act to relieve persons in service from liability of double taxation by being moved from one State to another under orders, it was intended that it should apply to personal-property taxes as well as to income taxes. As presently constituted, it primarily affects taxes in respect to income and other taxes based on residence or domicile, but it does not prevent the State of "temporary residence" from taxing tangible personal property actually located in such State so long as the tax does not depend on residence or domicile. A few States have taken the position that tangible personal property of military personnel who are only temporarily within their jurisdiction does not acquire a situs for taxation, but it has been held that section 514 of the act as now written does not affect the right of a State to assess personal-property taxes on property within its jurisdiction. The result has been that servicemen find themselves at times subjected to personal-property taxes on the same property in more than one State during the same calendar year by reason of being moved under orders.

Your committee considers that the existing law pertaining to State taxation of the personal property of persons in military service present in the various States in compliance with military orders should be clarified; that the military personnel concerned should not be subjected to multiple taxation of personal property by the various States and should be given the

same protection as to personal property taxes as is now provided in respect of income taxes.

Letter of the War Department follows:

WAR DEPARTMENT,
Washington, June 9, 1944.

Hon. ROBERT R. REYNOLDS,
Chairman, Committee on Military Affairs, United States Senate.

DEAR SENATOR REYNOLDS: The War Department has no objection to the enactment of H. R. 4733, Seventy-eighth Congress, an act to amend section 514 of the Soldiers' and Sailors' Relief Act.

The purpose of the proposed legislation is to prevent the multiple taxation of the personal property of military personnel by the various States, which it is understood was one of the purposes of section 514 of the Soldiers' and Sailors' Civil Relief Act as added by the act of October 6, 1942 (56 Stat. 769, 777).

As presently worded, section 514 of the act primarily affects taxes in respect of income and other taxes based on residence or domicile. Nothing in that section prevents the State of "temporary residence" from taxing tangible personal property actually located in such State, so long as the tax does not depend on residence or domicile. A few States, however, have taken the position that tangible personal property of military personnel who are only temporarily within their jurisdictions does not acquire a situs for taxation.

The proposed legislation will not result in any additional cost to the Government.

The Bureau of the Budget advised with respect to a similar report on H. R. 4733

to the Committee on Military Affairs, House of Representatives, that there was no objection to its submission to the Congress.

Sincerely yours,

HENRY L. STIMSON,
Secretary of War.

The report of the House Military Affairs Committee (Rept. No. 1514) is appended hereto and made a part of this report.

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4. H. Rep. No. 1514, 78th Cong., 2d sess., pp. 1-2:

The Committee on Military Affairs, to whom was referred the bill (H. R. 4733) to amend section 541 of the Soldiers' and Sailors' Relief Act, having considered the same, submit the following report thereon, with the recommendation that it do pass with the following amendment:

Strike out all after the enacting clause and insert the following language:

[Here follows Sec. 514, as amended by the Act of July 3, 1944, *supra.*]

GENERAL COMMENT

When the Soldiers' and Sailors' Civil Relief Act of 1940 was amended by the act of October 6, 1942, a provision was written into the act to relieve persons in the service from liability of double taxation by being moved from one State to another under orders. It was intended that this should apply to personal property taxes as well as income taxes. However, it has been held that under the wording of such amendment personal property taxes were not included. The result has been that servicemen find themselves at times subjected to personal

In particular, the Court has expressly affirmed that congressional power to exempt from State and local taxation is not limited to the protection of its own agencies (*Pittman* v. *Home Owners' Corp., supra; Federal Land Bank* v. *Bismarck Co., supra*), but also embraces the protection of those with whom it contracts (*James* v. *Dravo Contracting Co.*, 302 U. S. 134, 160–161; *Carson* v. *Roane-Anderson Co.*, 342 U. S. at p. 234), as well as of its wards, such as the Indians (*Board of Commissioners* v. *Seber*, 318 U. S. 705). This controlling principle makes inescapable the conclusion that a similar exemption of the personal property of servicemen is a reasonable and valid exercise of congressional power. The relationship between Congress and a serviceman is certainly as substantial and close as that between Congress and a Federal contractor. See *United States* v. *Standard Oil Co.*, 332 U. S. 301, 305. As this Court has said, "* * * the power of Congress to create tax immunities does not turn on the nature of the agency." It "stems from the power to preserve and protect functions validly authorized." *Carson* v. *Roane-Anderson Co., supra*, p. 234.

B. Respondent will probably argue, as he did in the court below, that because Section 514 (1) forbids the exercise of the State's power to tax, it is invalid, since the tax would not be borne by

the Federal government or "interfere" with the federal power.

This is a false test, which never has been used. In each case in which Federal exemptions from State and local taxes have been before this Court and have been upheld, almost without exception,[10] the result has been, of course, to bar the State's power to tax. It is true that in most of those cases a Federal agency itself has benefited from the exemption, but by this Court's most recent decision in this field (*Carson* v. *Roane-Anderson Co.*, 342 U. S. 232), upholding an exemption construed to include contractors with the United States, the United States benefited only indirectly. The Indian cases are another prime example of a Federal exemption not directly designed to aid the Federal Government pecuniarily.

Since Congress has the power to exempt its contractors in a field of Federal activity, or the Indians, from State and local taxation, the power to exempt a serviceman and his property from such taxation cannot be doubted. In each case, the power to create the relationship carries with it the power to protect. *Pittman* v. *Home Owners' Corp., supra,* p. 33. The raising and maintaining of national armed forces is, of course, in the common interest and, like the serviceman, the public must share in the burdens resulting from

[10] *Baltimore National Bank* v. *Tax Commission*, 297 U. S. 209, is an exception.

war and defense emergencies. That Congress should desire to protect the serviceman from the harassment of multiple State and local taxes, along with other civil liabilities inducing anxiety, seems reasonable and desirable. In a real sense, the imposition of such burdens on our soldiers and sailors is an interference with the Federal functions of waging war and providing for the national defense—an interference which Congress could constitutionally seek to remove in the manner provided by Section 514.

CONCLUSION

The judgment of the Supreme Court of Colorado should be reversed.

Respectfully submitted,

WALTER J. CUMMINGS, Jr.,
Solicitor General.
CHARLES S. LYON,
Assistant Attorney General.
PHILIP ELMAN,
ELLIS N. SLACK,
BERRYMAN GREEN,
GEORGE F. LYNCH,
Special Assistants to the Attorney General.

JANUARY 1953.

APPENDIX A

1. Soldiers' and Sailors' Civil Relief Act of 1940, c. 888, 54 Stat. 1178:

SEC. 100. In order to provide for, strengthen, and expedite the national defense under the emergent conditions which are threatening the peace and security of the United States and to enable the United States the more successfully to fulfill the requirements of the national defense, provision is hereby made to suspend enforcement of civil liabilities, in certain cases, of persons in the military service of the United States in order to enable such persons to devote their entire energy to the defense needs of the Nation, and to this end the following provisions are made for the temporary suspension of legal proceedings and transactions which may prejudice the civil rights of persons in such service during the period herein specified over which this Act remains in force.

(50 U. S. C. App., 1946 ed., Sec. 510.)

SEC. 101. (1) The term "persons in military service" and the term "persons in the military service of the United States", as used in this Act, shall include the following persons and no others: All members of the Army of the United States, the United States Navy, the Marine Corps, the Coast Guard, and all officers of the Public Health Service detailed by proper authority for duty either with the Army or the Navy. The term "military service", as used in this

Act, shall signify Federal service on active duty with any branch of service heretofore referred to or mentioned as well as training or education under the supervision of the United States preliminary to induction into the military service. The terms "active service" or "active duty" shall include the period during which a person in military service is absent from duty on account of sickness, wounds, leave, or other lawful cause.

* * * * * *

(50 U. S. C. App., 1946 ed., Sec. 511.)

2. Act of July 3, 1944, c. 397, 58 Stat. 722:

* * * That section 514 of the Soldiers' and Sailors' Civil Relief Act of 1940 (54 Stat. 1179), as added by the Soldiers' and Sailors' Civil Relief Act Amendments of 1942 (56 Stat. 769), is amended to read as follows:[1]

"SEC. 514. (1) For the purposes of taxation in respect of any person, or of his *persona'* property, income, or gross income, by any State, Territory, possession, or political subdivision of any of the foregoing, or by the District of Columbia, such person shall not be deemed to have lost a residence or domicile in any State, Territory, possession, or political subdivision of any of the foregoing, or in the District of Columbia, solely by reason of being absent therefrom in compliance with military or naval orders, or to have acquired a residence or domicile in, or to have become resident in or a

[1] For the Court's convenience, we have italicized the provisions of Section 514 which were added to it by the 1944 Act. In other words, the unitalicized portions constitute Section 514 as it was enacted in 1942 and as it stood prior to the amendments made by the 1944 Act.

resident of, any other State, Territory, possession, or political subdivision of any of the foregoing, or the District of Columbia, while, and solely by reason of being, so absent. For the purposes of taxation in respect of the *personal property*, income, or gross income of any such person by any State, Territory, possession, or political subdivision of any of the foregoing, or the District of Columbia, of which such person is not a resident or in which he is not domiciled, compensation for military or naval service shall not be deemed income for services performed within, or from sources within, such State, Territory, possession, political subdivision, or District, *and personal property shall not be deemed to be located or present in or to have a situs for taxation in such State, Territory, possession, or political subdivision, or district: Provided, That nothing contained in this section shall prevent taxation by any State, Territory, possession, or political subdivision of any of the foregoing, or the District of Columbia in respect of personal property used in or arising from a trade or business, if it otherwise has jurisdiction.* This section shall be effective as of September 8, 1939, except that it shall not require the crediting or refunding of any tax paid prior to *October 6, 1942.*

"*(2) When used in this section, (a) the term 'personal property' shall include tangible and intangible property (including motor vehicles), and (b) the term 'taxation' shall include but not be limited to licenses, fees, or excises imposed in respect to motor vehicles or the use thereof: Provided, That the license, fee, or excise re-*

quired by the State, Territory, possession, or District of Columbia of which the person is a resident or in which he is domiciled has been paid."

(50 U. S. C. App., 1946 ed., Sec. 574.)

Sec. 2. Nothing contained in this Act shall be construed to require the crediting or refunding of any tax in respect of tangible personal property (including licenses, fees, or excise imposed in respect of motor vehicles or the use thereof) paid prior to the date of its enactment.

(50 U. S. C. App., 1946 ed., Sec. 574 note.)

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3. 4A Colorado Statutes Annotated (1935 ed.), c. 142:

SEC. 72. *Personal property listed and assessed March first.*—All personal property within this state on March first at twelve o'clock meridian in the then current year shall be listed and assessed in the county where it shall be on said March first.

SEC. 73. *Property brought into state after March first.*—If any personal property shall be brought into this state at any time subsequent to the first day of March for any purpose whatsoever, the owner thereof shall at once file a schedule thereof with the assessor of the county wherein such personal property shall be located, and such property may thereupon be listed by the assessor and assessed for the then current year. On failure of the owner to file such schedule he shall be subject to the penalties provided by the next succeeding section, and the assessor shall proceed to assess such property as provided by the said section; provided, that if any such

personal property so brought into the state after twelve o'clock noon on the first day of March in any year, shall not remain in the state until the next succeeding March first, such property may be valued for taxation at such portion of its full cash value as the time within the state bears to the full year.

* * * * * *

SEC. 197. *Tax on personal property a lien—Procedure to collect tax.*—(a) All taxes levied or assessed upon personal property of any kind whatsoever shall be and remain a perpetual lien upon the property so levied upon, until the whole amount of such tax is paid; and, if such property so taxed, or any part thereof, shall have been removed from the county wherein the same was taxed, or the treasurer cannot find or obtain the same or other property sufficient for the satisfaction of the tax, with interest, penalties and charges, or whenever for any reason the treasurer may deem action in court advisable for such purpose, the treasurer, to recover all taxes, penalties, interest and costs due from the taxpayer, may sue the person so taxed, before any court of his county having jurisdiction; and, upon the trial of any such cause, the tax roll or a certificate from the county treasurer of the amount of such tax, and that the same is not paid, shall be prima facie evidence that the amount claimed is due and unpaid, and judgment shall be given for the amount of such tax, together with all costs, interest and charges thereon, and execution therefor shall issue as in other cases, from which execution and sale there shall be allowed no exemption except such property as is exempt from taxation by the revenue laws of 1902.

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In the Supreme Court of the United States

OCTOBER TERM, 1952

No. 302

CLAIBORNE DAMERON, PETITIONER

v.

A. S. BRODHEAD, MANAGER OF REVENUE AND EX-OFFICIO TREASURER OF THE CITY AND COUNTY OF DENVER

STATEMENT OF THE CASE

The material facts are not in dispute. As alleged in the complaint (R. 2-6) and admitted by the answer (R. 6-8), and as stated by the petitioner (P. 2-4), they are as follows:

The petitioner, a commissioned officer in the United States Air Force, is a citizen, resident and legal voter of the State of Louisiana. During all of the year 1948, the petitioner was assigned to duty at Lowry Field, an installation of the United States Air Force in the State of Colo-

property taxes in more than one State by reason of being moved under orders.

The purpose of the present act is to correct this situation and to give to the servicemen the same protection as to personal property taxes that they now have as to income taxes.

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5. H. R. 7029, 77th Congress, 2d Session

IN THE HOUSE OF REPRESENTATIVES

April 30, 1942

Mr. SPARKMAN introduced the following bill; which was referred to the Committee on Military Affairs

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A BILL

To amend the Soldiers' and Sailors' Civil Relief Act of 1940 to extend the relief and benefits provided therein to certain persons, to include certain additional proceedings and transactions therein, to provide further relief for persons in military service, to change certain insurance provisions thereof, and for other purposes.

* * * * *

SEC. 17. Article V of such Act is amended by adding at the end thereof the following:

"SEC. 514. (1) The income, gross receipts, and personal property, tangible or intangible (including automotive vehicles), of any person in the military service shall not be subject to taxation by any State, Territory, possession, political subdivision thereof, or the District of Columbia, by reason of (a) his temporary residence, (b) receipt of income or gross receipts, or (c) the temporary location of personal property, within a State, Territory, possession, political subdivision thereof, or the District of Columbia: *Provided*, That nothing con-

tained in this section shall prevent a State, Territory, possession, political subdivision thereof, or the District of Columbia from imposing taxes upon income or gross receipts, other than compensation for military service, derived from sources therein, nor from imposing a tax on personal property situated therein other than at a temporary location, as herein defined.

"(2) After the date of enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942, no State, Territory, possession, political subdivision thereof, or the District of Columbia shall make claim for, collect, or receive from any person in the military service any tax made inapplicable by subsection (1) hereof and which has accrued subsequent to the declaration of the national emergency made by the President on September 8, 1939; but the refund of taxes collected or received prior to such effective date shall not be required by the provisions of this section.

"(3) This section shall not be deemed in any manner to authorize any State, Territory, possession, political subdivision thereof, or the District of Columbia to impose any tax upon personal property located in or on any Federal area.

"(4) (a) When after September 8, 1939, a person in the military service has changed his physical residence in order to comply with military orders he shall be deemed to have acquired a 'temporary residence'; except that for purposes of taxation by a State, Territory, possession, or the District of Columbia he shall be deemed to have acquired a 'temporary residence' only if he shall have moved outside the exterior boundaries of such State, Territory, possession, or the District of Columbia.

"(b) Personal property shall be deemed to have a 'temporary location' when a person in the military service has such property at his 'temporary residence' or when, on changing from one 'temporary residence' to another, he leaves it at a previous 'temporary residence'.

"(c) The term 'Federal area' means any lands or premises owned or acquired by or for the use of the United States or any department, establishment, or agency of the United States."

* * * * *

APPENDIX C

State and Local Assessment Dates for Assessment of Personal Property

[As taken from Commerce Clearing House state and local tax services]

State	*Assessment date*
Alabama	October 1
Arizona	Between 1st Monday in January and May 1
Arkansas	January 1
California	1st Monday in March
Colorado	March 1
Connecticut	October 1
Delaware	No personal property tax
District of Columbia	Personal property valued as of July 1; automobiles as of April 1
Florida	January 1
Georgia	January 1
Idaho	Second Monday in June
Illinois	April 1
Indiana	March 1
Iowa	January 1
Kansas	March 1
Kentucky	All property assessed as of July 1 except: Money, stock shares, notes, bonds, accounts or credits—January 1; first, second and sixth class cities July 1; 3rd class cities fixed by ordinance; 4th class cities—April 1; 5th class—Sept. 15.
Louisiana	January 1
Maine	April 1
Maryland	January 1 (Baltimore City Oct. 1)
Massachusetts	January 1
Michigan	April 1
Minnesota	May 1
Mississippi	January 1
Missouri	January 1
Montana	1st Monday in March—Automobiles Jan. 1
Nebraska	March 10
Nevada	March (1st Monday)
New Hampshire	April 1
New Jersey	October 1

State	Assessment date
New Mexico	January 1
New York	No personal property tax
North Carolina	January 1
North Dakota	April 1
Ohio	January 1
Oklahoma	January 1
Oregon	January 1
Pennsylvania	1st class counties 3rd Monday in September; 2nd class counties 1st Monday in September; 3rd class counties (not prescribed); 4th to 8th class—September 1. No fixed assessment dates in Pennsylvania, statutes prescribe dates by which assessment revisions must be complete.
Rhode Island	June 15
South Carolina	June 1
South Dakota	May 1 except as of March 20th in 1st, 2nd and 3rd class cities
Tennessee	January 10
Texas	Between January 1 and April 30
Utah	January 1
Vermont	April 1
Virginia	January 1
Washington	January 1
West Virginia	January 1
Wisconsin	May 1
Wyoming	February 1